United Nations CAC/COSP/IRG/II/1/1/Add.10

Conference of the States Parties to the United Nations Convention against Corruption

Distr.: General
18 June 2018

Original: English

Implementation Review Group
First resumed ninth session
Vienna, 3–5 September 2018
Agenda item 2
Review of implementation of the United Nations Convention against Corruption

Executive summary

Note by the Secretariat

Addendum

Contents

Page

II. Executive summary 2

Mauritius 2

V.18-04129 (E) 060718 090718

Please recycle

II. Executive summary

Mauritius

1. Introduction: overview of the legal and institutional framework of Mauritius in the context of implementation of the United Nations Convention against Corruption

Mauritius signed the United Nations Convention against Corruption on 9 December 2003, ratified it on 15 December 2004 and deposited its instrument of ratification with the Secretary-General on 14 November 2005.

A hybrid legal system has developed in Mauritius, characterized by common law and civil law concepts taken mainly from France and the United Kingdom of Great Britain and Northern Ireland. While Mauritius uses a Criminal Code and Civil Code derived from French law, it has also been strongly influenced by the United Kingdom with regard to law on evidence and administrative law.

The most important institutions in the fight against corruption and money-laundering are the Independent Commission against Corruption (ICAC) and the Financial Intelligence Unit (FIU). Mauritius has enacted numerous laws to prevent and fight corruption, including the Prevention of Corruption Act (POCA, 2002), the Financial Intelligence and Anti-Money Laundering Act (FIAMLA, 2002), the Asset Recovery Act (ARA) and the Good Governance and Integrity Reporting Act 2015. In addition, the Bank of Mauritius and the Financial Services Commission have regulatory and supervisory jurisdiction within the scope of anti-money-laundering (AML) and countering the financing of terrorism (CFT), in relation to banking and non-bank financial institution activities.

Mauritius was reviewed during the first cycle of the second year of the Implementation Review Mechanism (CAC/COSP/IRG/I/2/1/Add.21).

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

Mauritius does not have an explicit national anti-corruption policy, but adopted the comprehensive POCA and other relevant laws. An implicit national policy was developed subsequent to the establishment of ICAC. The Public Sector Anti-Corruption Framework (PSACF) encourages the adoption of sectoral anti-corruption policies and strategies, corruption prevention plans and corruption risk management systems. To date, 55 public bodies have developed tailored anti-corruption policies and another 45 have embarked on corruption risk management exercises. Furthermore, 79 public bodies have established dedicated anti-corruption committees and have designated their integrity officers responsible for liaising with ICAC.

ICAC monitors the public bodies through regular corruption prevention reviews. Implementation of the review recommendations is also monitored by the anti-corruption committees on which ICAC officers act as ex officio members.

ICAC, the officially designated preventive body, implements its mandate through yearly action plans. It conducts a wide range of activities, including the above-mentioned corruption prevention reviews, development of manuals and tools, model policies and plans, events with the civil society, public and private sectors, organization of training sessions and awareness-raising and educational campaigns.

ICAC also plays a role in the evaluation of laws through the corruption prevention review recommendations, which have to date triggered numerous legislative reforms.

The independence of ICAC is established under POCA (s. 19–23) and is maintained through the allocation of sufficient material resources, selection of specialized staff and regular training programmes. POCA prescribes the appointment and termination procedure for the Director-General of ICAC (s. 19–21) and the rules for the appointment of ICAC officers (s. 24). ICAC is accountable to the National Assembly Parliamentary Committee, to which it submits its annual reports, including audited accounts (s. 36 and 59, POCA). In addition, the Parliamentary Committee monitors and reviews ICAC operations, except for investigations, and can enforce disciplinary actions in relation to the Director-General under prescribed circumstances (s. 61, POCA). The Committee also considers and approves the ICAC budget, which is then publicly available in the national budget. Detailed expenditure is found in publicly available annual reports.

Other bodies with mandates touching upon corruption and prevention include the FIU and the Mauritius Revenue Authority (MRA).

Mauritius actively participates in various anti-corruption initiatives and forums, including the Southern African Development Community (SADC) Anti-Corruption Committee, the International Association of Anti-Corruption Authorities and the Association of Anti-Corruption Agencies in Commonwealth Africa, and maintains bilateral partnerships with several foreign anti-corruption agencies. In addition, in 2015 and 2016, Mauritius hosted the global conference on anti-corruption reform in small island developing States.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The Public Service Commission (PSC) and the Disciplined Forces Service Commission (DFSC) are responsible for the recruitment, hiring, promotion and retirement of public officials, as governed by 1961 PSC and 1997 DFSC regulations. Other bodies with similar responsibilities include the Local Government Service Commission (LGSC), which fulfils similar functions for local government officials; the Ministry of Civil Service and Administrative Reforms (MCSAR), which addresses conditions of service and staff relations; the Civil Service College, which provides training to public bodies; the Public Bodies Appeal Tribunal (PBAT), which hears appeals against decisions of the PSC, DFSC and LGSC; and the Employment Relations Tribunal, a quasi-judicial body dealing with labour disputes. Statutory and corporate bodies, State-owned institutions and public companies fall outside the purview of the PSC and DFSC, and regulate recruitment in their respective legislations. The Judicial and Legal Services Commission (JLSC) is responsible for the appointment and the disciplinary control of the legal officers of the Office of the Attorney General and of the Office of the Director of Public Prosecution (DPP), as well as of magistrates and judicial officers (Constitution, s. 86, and JSLC Regulations 1967). Appointment and removal procedures for judges of the Supreme Court and the DPP are provided for in the Constitution (s. 72, 77 and 78).

While vacancies for public service are advertised through the Internet and national newspapers, the commissions may also delegate recruitment of junior or lower general service positions to the respective responsible offices. The recruitment process involves screening of candidates, written examinations and interviews, with integrity testing increasingly part of the process. The PSC and the DFSC do not notify unsuccessful candidates individually, but issue press communiqués about specific posts having been filled. While public officials may only appeal recruitment decisions in the Public Bodies Appeal Tribunal and subsequently in the Supreme Court, unsuccessful candidates outside the public service may only appeal through the judicial review in the Supreme Court. Rotation systems are officially in place for certain positions in public service (e.g., police officers), and, while not explicitly regulated, there is an established practice of some rotation in national administration, including at the highest levels. Promotion of public officials is governed by PSC Regulations (Part III).

Mauritius has identified certain positions as particularly vulnerable to corruption (e.g., customs officers, procurement officers and officers involved in the allocation of licences and permits). These are subject to special training or tailored integrity management programmes organized by ICAC in collaboration with, among others, MRA, MCSAR and the Mauritius Police Force.

All public officials are bound by the general code of ethics for public officers, which covers conflicts of interest, gifts and outside employment, among other issues. While only of an aspirational nature, it complements the PSC Regulations, which introduce the disciplinary mechanism and sanctions (s. 30–46). Separate sectoral codes of conduct exist for procurement officers and law enforcement officers. The Code of Corporate Governance applies to all State-owned enterprises.

Non-disclosure of conflict of interest is a criminal offence under POCA (s. 13). The creation of conflict of interest management systems in public bodies is recommended by ICAC and has been implemented in many public bodies.

Mauritius has adopted a zero tolerance approach for gifts to public officials. The only permissible gifts are tokens. ICAC has developed guidelines on gifts, recommending all public bodies to establish a duty to report all tokens and to create gift registries. However, no binding legal provision exists and many public bodies have yet to implement this recommendation.

Secondary employment is permitted only in the areas where there is a scarcity of skills (s. 10, Code of Conduct) and then only with the prior approval of the head of the institution. No cooling-off period for public officials moving to the private sector is in place.

Public officials have a duty to report acts of corruption to ICAC (POCA, s. 44); however, there are no sanctions for non-reporting. ICAC has issued guidelines on this issue, which have been widely disseminated within public bodies.

Some public officials are subject to regular, confidential asset declarations, including staff of ICAC, MRA, the FIU and the Procurement Policy Office. All elected officials, including members of the National Assembly, the Rodrigues Regional Assembly and local authorities, are subject to mandatory asset declarations (s. 3, Declaration of Assets Act (DAA)). Non-submission of declarations is sanctioned (s. 6, DAA); however, no established verification and monitoring mechanism is in place. POCA section 84 on possession of unexplained wealth can be used in the course of an investigation.

Mauritius is currently in the process of drafting a new public service bill to address the existing gaps in the areas of disciplinary sanctions, asset declarations and gifts. The bill will be supplemented by a new comprehensive code of conduct for public officials, as well as codes for ministers and political advisors.

MCSAR relies on the recommendations of the national Pay Research Bureau for pay scales and salary revisions for public officials.

Criteria concerning candidature for and election to public office are set out in the Constitution (s. 33 and 34), the Representation of the People Act (RPA) (s. 69, 70 and 74), the Rodrigues Regional Assembly Act and the Local Government Act.

The legal and regulatory framework around the funding of candidatures for elected public office and political parties is limited and includes the following: Part IV of RPA (which calls for transparency in election expenses), the Code of Conduct for National Assembly Elections and the Code of Corporate Governance (which calls on private entities to provide political funding within law and in the interest of the company). All elections are supervised by the Electoral Supervisory Commission. Mauritius aims to adopt a comprehensive new law on funding of political parties, covering areas such as accounting obligations, public subsidies, private donations and expenditure limits. Guidelines for Judicial Conduct establish standards of ethical conduct for judges and magistrates and address, among others, the issues of conflict of interests and recusal. Prosecutors are guided by the Guidelines on Prosecution and

the Code of Ethics for Barristers and Attorneys. The JLSC regulations set out the disciplinary mechanism (s. 14–21).

Public procurement and management of public finances (art. 9)

Public procurement is governed primarily by the 2006 Public Procurement Act (PPA). The institutional framework includes the Procurement Policy Office (PPO), the Central Procurement Board (CPB) and the Independent Review Panel (IRP).

Procurement is currently decentralized at the level of individual ministries and departments, while high-value procurement (above 100 million Mauritian rupees, depending on the category in which the public body is listed in the Schedule of the PPA) is carried out by the CPB.

E-procurement was introduced in Mauritius in 2015. In addition, an online procurement portal provides links and information pertaining to procurement, tenders and awards.

Unsuccessful bidders can challenge procurement decisions before the IRP. While the PPA prescribes that IRP recommendations are binding, no mechanism is in place to enforce IRP decisions in the case of non-compliance.

The procedures and competences for the elaboration and adoption of the national budget are set out in the Finance and Audit Act. The Ministry of Finance and Economic Development (MoFED) plays a key role in this regard, including through requesting and gathering budget proposals electronically from ministries and departments, conducting consultations and presenting the budget to the National Assembly for approval.

The legal framework around the accountability in the management of public finances includes the Finance and Audit Act, the Statutory Bodies Act, the Act for Special Funds, the Local Government Act and the Financial Reporting Act. Institutions with relevant mandates include: MoFED, NAO, Accountant General, Director of Audit, Public Accounts Committee and Financial Reporting Council. No sanctions are in place for heads of ministries and departments for late submissions of their annual reports and financial statements. The Criminal Code includes several offences related to falsifying records and books (s. 106–112).

Under the National Archives Act, all public bodies are required to keep their records for seven years, and the National Archives serves as the repository of public records.

Public reporting; participation of society (arts. 10 and 13)

Mauritius plans to adopt a new Freedom of Information Act to fill the existing gaps with regard to access to information, such as lack of procedures for requesting information, no clear duty of public officials to disclose information and no sanctions for non-compliance.

Mauritius proactively shares information with the general public, including through publication of information on the Internet, several e-portals and e-government initiatives.

ICAC has developed partnership strategies with numerous civil society organizations towards better prevention of corruption, including through the following platforms: Trade Union Action against Corruption; Civil Society Network against Corruption; NGO Focal Group; Anti-Corruption Academic Forum and Youth Against Corruption.

ICAC has developed a range of public education programmes, including anti-corruption modules at all education levels and training activities for public and parastatal bodies.

Any person may report an act of corruption to ICAC (POCA, s. 43). ICAC has established several reporting channels, including through a hotline, letters, Internet, anonymously or in person.

Private sector (art. 12)

The relevant legal framework includes the Companies Act, FIAMLA, the Financial Reporting Act, the Financial Services Act, the Securities Act, the Bank of Mauritius (BOM) Act, the Banking Act and PPA.

The Financial Reporting Council (FRC) promotes high quality reporting by public interest entities and improves the quality of accounting and auditing services. The Mauritius Institute of Professional Accountants supervises and regulates the accountancy profession and has established a Code of Professional Conduct and Ethics for Accountants. The Mauritius Institute of Directors promotes corporate governance through training and development. The Financial Services Commission (FSC) regulates and monitors the non-bank financial services sector.

The Code of Corporate Governance comprises a set of principles and guidance aimed at improving the governance practices of organizations within Mauritius. It governs conduct of all public interest entities (as defined in the Financial Reporting Act), State-owned enterprises, statutory corporations and parastatal bodies, and has been revised in 2016 to better implement the existing international standards. Among others, the Code calls for the development of internal risk management systems. While no sanctions exist for non-compliance, the Financial Reporting Council may write to the board of a given entity to encourage them to comply. The Council reviews the annual reports of all public interest entities.

In 2013, the Public Private Platform against Corruption was set up to build synergies between the public and private sectors. The Private Sector Anti-Corruption Task Force was established in collaboration with the Mauritius Institute of Directors and Business Mauritius, among others, as a voluntary private sector anti-corruption initiative.

Mauritius has amended the Business Facilitation Act to enhance transparency in obtaining registrations, licences and permits for various commercial activities at both State and local levels.

Tax deductibility of expenses that constitute bribes is not allowed (s. 26, Income Tax Law).

Measures to prevent money-laundering (art. 14)

Mauritius is a founding member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). Mauritius has undergone several assessments by the World Bank and the International Monetary Fund (Financial Sector Assessment Programme) and is presently carrying out its own risk assessments. These reviews and assessments have in the past all triggered subsequent amendments to the legislative and regulatory AML/CFT frameworks over the last decade.

Mauritius AML regulatory and supervisory regimes include FIAMLA, the Financial Services Act 2007, the Banking Act, the BOM Act and related regulations.

However, BOM and FSC, as regulators for the financial services sector, issue guidance notes on AML/CFT to their licensees. The FIU has, among others, issued guidelines on the filing of suspicious transaction reports. Mauritius National AML Committee (FIAMLA Section 19A) intends to draft a new AML/CFT national strategy and road map in the near future. Apart from the ultimate goal of realigning the AML/CFT framework to the 2012 recommendations of the Financial Action Task Force, the anticipated strategic process should also help strengthen and harmonize inter-institutional cooperation.

Mauritius applies a risk-based approach to Customer Due Diligence (BOM Guidance Notes on AML Section 2.05). The legally binding Guidance Notes on AML issued by BOM, as well as those issued by the FIU and the FSC, outline the details required to identify the originator (including name, address, ID number and account number). Such details should be submitted by the originating bank through any intermediary institution until the transfer reaches its final destination.

Mauritius moved from a disclosure to a declaration-based cross-border cash system in 2009, which covers all physical cross-border movements and all forms of cash and negotiable instruments (Customs Act, sect. 131A). The current limit is 500,000 Mauritian rupees (equivalent to $14,500), which is the same as the permissible cash transaction limit in Mauritius (sect. 5, FIAMLA). Failure to comply with the cited provision is a criminal offence, which can be sanctioned with a fine of up to 2 million Mauritian rupees and to penal servitude for a term not exceeding 10 years.

Mauritius has signed a considerable number of memorandums of understanding with the international counterparts of the FIU and the FSC in order to combat money-laundering and counter the financing of terrorism through cooperation and information-exchange.

2.2. Successes and good practices

- The adoption of PSACF, calling on public bodies to develop and implement their own anti-corruption policies and corruption risk management systems (art. 5, para. 1)
- Wide multi-stakeholder engagement and regular consultations with civil society (art. 13)

2.3. Challenges in implementation

It is recommended that Mauritius:

- Enhance transparency in the funding of political parties, including through the adoption of a new law which would regulate issues such as accounting obligations, public subsidies, private donations, public disclosure and expenditure limits (art. 7, para. 3)
- Consider strengthening the asset declaration system for public officials, including through the adoption of the envisaged new law and introducing an effective verification system (art. 7, para. 4, and art. 8, para. 5)
- Amend its asset declaration system to also include information regarding foreign-based assets, signatures and other values (art. 8, para. 5, and art. 52, para. 6)
- Continue the efforts to encourage public officials to report acts of corruption (art. 8, para. 4)
- Consider strengthening the measures concerning gifts to public officials, in particular courtesy gifts of higher value (art. 8, para. 5)
- Take measures to strengthen the enforceability of the IRP recommendations on procurement (art. 9, para. 1)
- Enhance the efforts to promote accountability in the management of public finances, such as providing sanctions for late submissions of financial statements by ministries/departments (art. 9, para. 2)
- Continue the efforts of the Financial Reporting Council to monitor the compliance of the relevant entities with the Code of Corporate Governance (art. 12, paras. 1 and 2)
- Enhance transparency in procedures regarding licences and permits granted by public authorities, including through the amendments to the Business Facilitation Act (art. 12, paras. 1 and 2)
- Enhance access of general public to information, including through adopting a new law on the access to information that would fill the existing gaps, including grounds for refusal, time frames and an appeal mechanism. In addition, raise awareness among the general public regarding their right to request information (art. 10a, and art. 13, para. 1b)

- Continue the efforts to engage in consultations with civil society with regard to the development of new laws, such as the upcoming law on the access to information and the law on the funding of political parties (art. 13, para. 1a)
- Widen the non-financial businesses and professions scope of FIAMLA applicable to other sectors that are vulnerable to money-laundering that are not currently covered by existing AML legislation (art. 14, para. 1)
- Establish and ensure appropriate access to a bank account register with ultimate beneficial ownership information, which is at present under consideration, within one of the existing anti-money-laundering bodies (art. 14, art. 52, and art. 55, para. 8)
- Ensure the finalization and adoption of the AML/CFT national strategy and road map in order to establish a clear delineation of responsibilities among complementary competencies and avoid overlap and enhance inter-institutional cooperation (arts. 14 and 58)
- Continue the expansion of the software GoAML to further institutions in order to enhance inter-agency communication and coordination (art. 14)
- Introduce a reporting obligation for cash transactions above 500,000 Mauritian rupees (art. 14, para. 2)
- Clarify the scope of the provision relating to "payment" (sect. 2, FIAMLA) to mean the total amount paid and not the individual payments separately (art. 14, para. 2)

2.4. Technical assistance needs identified to improve implementation of the Convention

- Legislative assistance (arts. 9, 10 and 11)
- Institution-building (arts. 7, 8 and 9)
- Capacity-building (arts. 5, 6, 9, 11, 13 and 14)
- Research/data-gathering and analysis (art. 11)
- Facilitation of international cooperation with other countries (arts. 5 and 11)

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Several legislative provisions in Mauritius make express reference to the ability to cooperate in both a formal and informal capacity as well as share information nationally and internationally as deemed necessary to provide assistance (sect. 3, Mutual Assistance in Criminal and Related Matters (MACRM) Act; sect. 20 (3), FIAMLA; sect. 81 (5), POCA; and sects. 53–59, ARA).

The main piece of legislation with regard to asset recovery is the ARA, which provides for both conviction-based as well as non-conviction-based confiscation, including through the enforcement of a foreign court order. The FIU acts as the enforcement authority under the ARA Amendment of 2015 (sect. 4).

Mauritius communicates on a near daily basis with other States and shares information freely even in the absence of a treaty, including through the Egmont Group or the International Criminal Police Organization (INTERPOL).

Mauritius is still in the process of completing its first few asset recovery cases at the international level. Bank secrecy is not an obstacle to any asset recovery requests (ARA, sect. 57). However, it was noted that the courts were generally erring on the side of restraint when agreeing to access banking information, owing to human rights

considerations. Therefore, a bank account register would ensure easier access to information for investigative agencies.

There is a plethora of new laws and the revision of others is under way. Mauritius was urged to ensure that this new body of legislation should be coordinated and consulted among the many national institutions and bodies that are concerned, including through the new anticipated AML/CFT national strategy and road map. It was also highlighted that the Asset Declaration Act, currently being drafted, would also help develop and implement a transparent and comprehensive policy for asset recovery.

Mauritius has concluded a relatively large number of bilateral and multilateral agreements/arrangements concluded on international cooperation in general, and also participates in the Asset Recovery Inter-agency Network for Southern Africa (ARINSA).

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

At present, while all banks and financial institutions are required to keep "know your customer" information, there is no centralized register or database. Section 17 of FIAMLA requires licensees to verify the true identity of all customers and other persons with whom they conduct transactions and, in particular, verify the customer identification and identify the beneficial owners of funds deposited into high-value accounts. Mauritius also requires that financial institutions gather sufficient information in order to establish whether the customer is a politically exposed person and whether the beneficial owner could be a politically exposed person. The definition of a politically exposed person, who may be local or foreign, is outlined in the legally binding BOM guidance note on AML/CFT and the list of such persons should be reviewed at least yearly by senior management (sect. 6.100 et seq.).

As mentioned, Mauritius amends its legislation and regulations in order to align them with international standards. Mauritius requires that supranational standards be domesticated through a legislative process, which has not been done for the Convention to date.

Mauritian law sets a seven-year minimum threshold for the keeping of files and records. However, the law also allows such records to be kept longer; some institutions have therefore decided to preserve their records for a longer period of time. Records are not kept centrally, but within each institution.

The establishment of shell banks is prohibited and financial institutions are not allowed to enter into business relations with foreign institutions that accept the use of their accounts by such banks (sect. 5(1), BOM Act and sect. 6.92, BOM guidance note). The Central Bank (BOM) can communicate with other central banks and the FIU of Mauritius can communicate directly with foreign FIUs, which they do on a regular basis.

The Bank of Mauritius and the FSC require financial institutions to conduct AML/CFT risk assessments. Since August 2016, money-changers are required to report directly and in person to the Bank of Mauritius on all their transactions. Information on the sanctions or other restrictions applied after such due diligence can be found in the Banking Act (2004, sects. 11 et seq.).

Mauritius has a limited asset declaration system in place (see above under art. 8) which does not oblige officials concerned to disclose their "financial interests" outside of the country.

The Asset Recovery Investigation Division, which now falls under the aegis of the FIU, has both administrative and investigative powers. The FIU has the mandate to cooperate internationally for the purpose of asset recovery and regularly shares and seeks information for intelligence on an informal basis. Formal requests are sent through the Office of the Attorney General through a request for Mutual Legal Assistance.

It is anticipated that the new AML/CFT national strategy and road map will lay out the parameters for the complementary competencies in relation to the international aspect of cooperation in the area of asset recovery, AML and CFT.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

While there is nothing to prevent another State from initiating civil proceedings in Mauritius, this has never happened, and it was unclear how it would be handled by a court from a legal perspective. However, foreign States and parties have already exercised the right to recover damages in Mauritius. There is nothing in the legislation of Mauritius to prevent a foreign State or entity from making a claim as a legitimate owner of property during the confiscation process, since the definition is interpreted widely: "any person or individual shall apply to and include a group of persons, whether corporate or unincorporated" (Interpretation and General Clauses Act of 1974). Foreign States have recourse to assistance through a mutual legal assistance request under the MACRM Act.

Mauritius provides the possibility for both non-conviction-based and conviction-based confiscation, freezing and seizing of assets and accounts (Parts III and IV of ARA). Conviction-based recovery is in person and non-conviction based in rem. The law outlines the process of seeking direct application of foreign orders through the Supreme Court (MACRM Act, sect. 12). In practice, and with a view to speeding up the process, the authorities of Mauritius may initiate a domestic procedure instead and/or in parallel, using the incoming request as evidence and attaching it to an affidavit. Such a process can be carried out and assets confiscated, frozen or seized within 24 hours.

Return and disposal of assets (art. 57)

Pursuant to sections 19–21 of ARA, Mauritius sells all assets that are confiscated in order to retain the monetary value. Funds are deposited into a separate account until final adjudication. The FIU can also appoint a trustee to estimate the value of the benefit derived by the crime and confiscate, seize or freeze assets to an equivalent amount. This practice has never been challenged to date. Also, once the case is adjudicated, 80 per cent of the recovered assets fall to the State of Mauritius, to be deposited into a recovered assets fund for compensating victims after costs incurred have been deducted (ARA 58 (2) and sect. 6).

At the request of any foreign State for the enforcement of a foreign order received through a mutual legal assistance request, section 58 of ARA stipulates that the Attorney General shall transfer any ill-gotten assets, pending which, the confiscated property remains vested in the State of Mauritius (ARA, sect. 54). Mauritius also can proceed with non-conviction-based confiscation in the absence of a final judgment at the request of a foreign State.

Civil asset recovery is also possible in Mauritius as per section 54 of ARA, together with section 13 of the MACRM Act.

3.2. Successes and good practices

- Setting up direct live reporting of money-changers to address risks identified by the Bank of Mauritius risk assessment of the banking sector (art. 14, para. 1, and art. 52, para. 1)
- Mauritius allows non-conviction-based confiscation, including on the basis of foreign orders and requests (art. 54)

3.3. Challenges in implementation

It is recommended that Mauritius:

- Amend its asset declaration system to also include information regarding foreign-based assets, signatures and other values (art. 8, para. 5, and art. 52, para. 6)
- Clarify the current legal uncertainty regarding whether States are allowed to be a civil party to an asset recovery case and directly apply to the courts in Mauritius (art. 53)
- Monitor the application of the Recovered Assets Fund in order to ensure that States that are victims are duly compensated (arts. 53 (b) and 58)
- In view of being a dualist country, ensure that the Convention can be used as a legal basis in international cooperation in general and in asset recovery cases in particular (art. 55, para. 6)
- Ensure the finalization and adoption of the AML/CFT national strategy and road map in order to establish a clear delineation of responsibilities among complementary competencies and avoid overlap and enhance inter-institutional cooperation (arts. 14 and 58)

3.4. Technical assistance needs identified to improve implementation of the Convention

- Legislative assistance (art. 59)
- Institution-building (art. 59)
- Capacity-building (arts. 51, 53 and 54)
- Capacity-building for the Assets Recovery Investigation Division (art. 58):
  - Financial investigations
  - Asset recovery investigations
  - Organization and analysis of large data volumes through data mining
  - Money-laundering and confiscation relating to virtual currencies